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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE ANDREW J. GUILFORD, JUDGE PRESIDING

- - - - -

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
EDWARD SHOWALTER,)
)
Defendant.)
_____)

No. SACR 06-129-AG

**CERTIFIED
COPY**

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Sentencing

Santa Ana, California

Monday, March 3, 2008

Jane C.S. Rule, CSR 9316
Federal Official Court Reporter
United States District Court
411 West 4th Street, Room 1-053
Santa Ana, California 92701
(714) 558-7755

08-03-03 SHOWALTER

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2
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I N D E X

SENTENCING AFTER GUILTY PLEA TO ONE COUNT INFORMATION

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1 SANTA ANA, CALIFORNIA, MONDAY, MARCH 3, 2008

2 SENTENCING

13:46:27 3 (3:38 p.m.)

15:38:54 4 THE CLERK: Remain seated and come to order. This
15:38:55 5 Court is again in session.

15:38:58 6 Item 9, SACR 06-129, United States of America v.
15:39:05 7 Edward Showalter.

15:39:10 8 Appearances, please, counsel.

15:39:11 9 MR. STOLPER: Good afternoon, your Honor. Andrew
15:39:13 10 Stolper on behalf of the government.

15:39:13 11 MR. CORTEZ: Good afternoon, Your Honor. Ezekiel
15:39:14 12 Cortez on behalf of Mr. Showalter, who is present.

15:39:18 13 MR. MILLER: Good afternoon, your Honor. Ken
15:39:20 14 Miller also on behalf of Mr. Showalter.

15:39:23 15 THE COURT: All right. Good afternoon, counsel.

15:39:25 16 Good afternoon, Mr. Showalter.

15:39:26 17 We are here for a sentencing. Let me tell you at
15:39:33 18 least some of the documents I've received because, indeed,
15:39:36 19 I've received many documents. I want to be sure I have
15:39:46 20 received and reviewed all the necessary documents.

15:39:52 21 So I have reviewed voluminous financial records
15:40:02 22 provided by the defendant. I have reviewed Defendant
15:40:10 23 Showalter's additional materials for sentencing and for bail
15:40:14 24 pending appeal. I've received the government's opposition
15:40:18 25 to defendant's motion for bail pending appeal. I have

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15:40:24 1 received an addendum to the presentence report dated
15:40:28 2 February 19th, 2008. I have received from the probation
15:40:35 3 office a letter dated March 3rd, 2008, although it says
15:40:41 4 "3008." I have received a letter dated January 29th, 2008,
15:40:51 5 from the probation office.

15:40:55 6 Then I have received documents previously filed
15:41:00 7 and considered at earlier hearings, including the
15:41:03 8 government's position on resentencing dated November 28th,
15:41:07 9 2007, a previous letter from the probation office dated
15:41:13 10 October 29th, 2007, defendant's sentencing memorandum with a
15:41:21 11 date of October 15th, 2007.

15:41:26 12 Counsel, are there other documents I should have
15:41:29 13 received and reviewed. Mr. Ezekiel (sic)?

15:41:36 14 MR. CORTEZ: I can't think of anything else, your
15:41:37 15 Honor, no.

15:41:38 16 MR. STOLPER: Your Honor.

15:41:41 17 THE COURT: Just a moment. Let's hear from
15:41:42 18 Mr. Miller.

15:41:46 19 *(Attorney discussion held off the record.)*

15:41:51 20 MR. CORTEZ: May I have a moment, your Honor?

15:41:53 21 *(Attorney discussion held off the record.)*

15:41:56 22 MR. CORTEZ: No, we don't have -- your Honor
15:41:58 23 covered everything.

15:41:59 24 THE COURT: All right.

15:42:00 25 Mr. Stolper.

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15:42:01 1 MR. STOLPER: Just the letters from the victims,
15:42:02 2 your Honor, which I believe the Court has.

15:42:06 3 THE COURT: Oh, my goodness. Thank you for
15:42:07 4 reminding me. Yes, I have received -- and let's just say
15:42:13 5 voluminous letters from the victims.

15:42:16 6 Has the government provided those letters to
15:42:18 7 Mr. Showalter?

15:42:20 8 MR. STOLPER: Your Honor, the government
15:42:21 9 requested the Court provide those letters to make sure we
15:42:24 10 are all on the same page, and as I understand it, that did
15:42:28 11 happen.

15:42:29 12 THE COURT: Yes. And, in fact, Mr. Showalter's
:42:31 13 papers, I think, reference some of those letters.

15:42:34 14 All right. Have all parties received the material
15:42:38 15 from the probation office in sufficient time to review and
15:42:43 16 discuss them? Mr. Stolper?

15:42:46 17 MR. STOLPER: We have, your Honor.

15:42:46 18 THE COURT: Mr. Ezekiel?

15:42:48 19 MR. CORTEZ: Yes, sir, we have.

15:42:49 20 THE COURT: All right. Let's get to the issue of
15:42:50 21 the calculation of the correct guideline range. The
15:42:56 22 probation office, as I understand it, has an offense level
15:43:01 23 of 33, a criminal history category of 1, resulting in a
15:43:05 24 guideline range of 135 to 168 months.

:43:12 25 Mr. Stolper, is that where the probation office is

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15:43:16 1 on this?

15:43:17 2 MR. STOLPER: It is, your Honor.

15:43:17 3 THE COURT: And where is the government on the
15:43:19 4 correct guideline calculation?

15:43:20 5 MR. STOLPER: The government concurs with the
15:43:21 6 range, your Honor.

15:43:23 7 THE COURT: All right. Mr. Ezekiel.

15:43:26 8 MR. MILLER: Your Honor, Ken Miller, if I may be
15:43:28 9 heard on this issue briefly.

15:43:30 10 THE COURT: You certainly can, Mr. Miller.

15:43:30 11 MR. MILLER: Thank you.

15:43:31 12 THE COURT: Why don't you stand at the lectern.

15:43:33 13 MR. MILLER: Yes, your Honor.

15:43:36 14 I would like to just focus on four offense levels
15:43:41 15 that are included within the probation's calculation. It is
15:43:46 16 the -- for starters, the additional two levels for the
15:43:51 17 number of victims, there is a two-level enhancement for more
15:43:56 18 than 10 victims, and there is a four-level enhancement for
15:44:03 19 more than 50 victims. Once the Court and probation get out
15:44:06 20 to saying there is more than 50 victims, they are outside of
15:44:11 21 the plea agreement.

15:44:12 22 Now, Mr. Showalter has repudiated the plea
15:44:14 23 agreement, but the Court's denied our motion to withdraw.
15:44:18 24 So to the extent that the Court is relying on that,
15:44:20 25 obviously we object. But regardless, 50 victims, there has

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15:44:27 1 to be additional evidence to get to 50 victims. You can't
15:44:30 2 simply rely on the plea agreement.

15:44:34 3 When you count up the number of victims that are
15:44:36 4 listed in the presentence report, I believe there is 18. If
15:44:41 5 you count up the number of victims that testified -- if you
15:44:45 6 add in the people that testified at the last hearing, I
15:44:47 7 think that's up to 23.

15:44:49 8 But no matter how you look at it, the government
15:44:52 9 has not shown that there are more than 50 victims, and I
15:44:56 10 don't think the Court can infer that there are more than
15:45:00 11 50 victims from the fact that High Park Investment had over
15:45:05 12 117 investors or lenders, because a lot of those investors
15:45:10 13 or lenders claimed that they were not victims.

15:45:14 14 If you look at the letter from Tom Cavette
15:45:15 15 (phonetic), which is listed in the presentence report, he
15:45:21 16 goes through it and he says, "I represent 54 people. We've
15:45:25 17 invested \$9 million, and Mr. Showalter has done all of these
15:45:29 18 good things."

15:45:30 19 I submit that there is insufficient evidence for
15:45:32 20 this Court to impose four levels, rather than two, for the
15:45:37 21 number of victims.

15:45:39 22 As to the amount of loss, the plea agreement
15:45:42 23 says -- and this is the other two points that I would like
15:45:44 24 to address. The -- under 2B1.1, the offense level goes up
15:45:51 25 based on the amount of loss. If it's -- in the plea

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15:45:54 1 agreement, there is a minimum there, it's 1 million; and if
15:45:57 2 the Court were to find a 1 million loss, there would be
15:46:00 3 certain offense levels that are added. Once you are past
15:46:03 4 2.5 million, it goes up again. And once you are past
15:46:06 5 7 million, it goes up again.

15:46:09 6 If you add up the amount of loss from the victims
15:46:13 7 identified in the presentence report, you are under
15:46:16 8 3 million. If you add in the losses from the last hearing
15:46:24 9 we had in December, from the people that spoke, that gets
15:46:27 10 you to about 3.7 million. You are still not up to the
15:46:31 11 7 million that you need to in order to have the -- what is
15:46:37 12 it, from the PSR, the 20-level, offense level bump. If you
15:46:43 13 are between 2.5 million and 7 million, it should only be an
15:46:48 14 18-offense level bump.

15:46:50 15 So my point here today, without waiving anything,
15:46:53 16 just looking at what's in --

15:46:54 17 THE COURT: Let me state for the record --

15:46:56 18 MR. MILLER: Yes, your Honor.

15:46:57 19 THE COURT: -- nothing will be waived. I
15:46:59 20 understand the position you are in. So that goes for all of
15:47:01 21 the statements you will be making.

15:47:03 22 MR. MILLER: Thank you, your Honor.

15:47:04 23 Then with that said, I would just point out that
15:47:07 24 looking at the PSR, it doesn't justify more than 50 victims;
15:47:10 25 looking at the PSR, it does not justify more than \$7 million

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15:47:15 1 loss. The only way that you get to that is if you assume
15:47:18 2 that all 117 lenders -- investors are victims, and the
15:47:24 3 record does not bear that out.

15:47:26 4 And with that, your Honor, I would submit.

15:47:29 5 THE COURT: All right. So if I'm hearing you
15:47:31 6 right, you are suggesting certainly a criminal history
15:47:36 7 category of 1.

15:47:38 8 MR. MILLER: Yes, your Honor.

15:47:39 9 THE COURT: And an offense level of?

15:47:41 10 MR. MILLER: Twenty-nine total.

15:47:42 11 THE COURT: All right. Mr. Stolper, Mr. Miller
15:47:50 12 has concisely framed the issue as to amount of loss and
15:47:55 13 victims.

15:47:59 14 MR. STOLPER: Your Honor, Mr. Miller's arguments,
15:48:02 15 respectfully, make a faulty assumption, the assumption
15:48:06 16 that --

15:48:07 17 THE COURT: I'm sorry.

15:48:08 18 MR. STOLPER: Mr. Miller arguments suffer from a
15:48:11 19 faulty assumption.

15:48:12 20 THE COURT: Okay.

15:48:12 21 MR. STOLPER: Mr. Miller's arguments suffer from
15:48:15 22 an assumption that High Park was not a scam, and
15:48:19 23 unfortunately for the victims in this courtroom, it was.
15:48:22 24 And as a result, the money that those people paid into
15:48:25 25 High Park was taken from them, from the defendant, under

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15:48:28 1 false pretenses. That's what he pled guilty to, whether he
15:48:32 2 repudiates it or not.

15:48:33 3 As a result, those folks are all victims. Those
15:48:37 4 folks' money are all losses. Mr. Miller has said that this
15:48:44 5 is in the PSR, that is in the PSR. That is not entirely
15:48:49 6 true. The PSR has an addendum, and that addendum lists
15:48:53 7 every victim, every amount of money they were victimized
15:48:56 8 for.

15:48:58 9 For defendant to get up here and say that those
15:49:02 10 people aren't victims because they haven't come forward and
15:49:05 11 complained specifically, is not the definition of a victim
15:49:10 12 under the guidelines, it's not how High Park worked.

15:49:14 13 I submit that every one of the people who put
15:49:18 14 money into High Park did so based upon the defendant's false
15:49:22 15 and fraudulent representations. That's what the defendant
15:49:25 16 pled guilty to. As a result, they are all victims, and the
15:49:28 17 money they paid in is all loss.

15:49:32 18 One other point just to draw some clarity for the
15:49:34 19 Court, the defendant acknowledged that there are at least 10
15:49:38 20 victims. The one thing I didn't hear Mr. Miller do was
15:49:42 21 distinguish why the people who were mentioned by name in the
15:49:46 22 text or the beginning part of the PSR and not at the end
15:49:50 23 part of the PSR, how those are different, why those -- why
15:49:54 24 some are considered victims in Mr. Miller's way of looking
15:49:54 25 at the world, and others are not.

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15:49:56 1 The truth here, your Honor, is quite simple:
15:49:59 2 High Park was a scam. The defendant obtained money from
15:50:03 3 these folks under false pretenses. They are all victims.
15:50:06 4 It is all loss.

15:50:08 5 Unless the Court has questions, I --

15:50:10 6 THE COURT: Yes. Will you supplement the record
15:50:12 7 by stating the -- I believe it was the range of victims as
15:50:17 8 set forth in the plea agreement.

15:50:19 9 MR. STOLPER: It was -- there is actually two
15:50:21 10 points, your Honor. The plea agreement sets forth more than
15:50:24 11 10 victims. But the plea agreement's an open-ended
15:50:26 12 agreement. The parties agree that this is the baseline
15:50:29 13 amount of offense -- the baseline offense level, and the
15:50:32 14 parties are free -- both parties are free to argue for
15:50:36 15 additional and for -- to argue for additional offense
15:50:38 16 level -- excuse me, additional adjustments and departures as
15:50:41 17 appropriate.

15:50:42 18 And so for Mr. Miller to say that the plea
15:50:45 19 agreement doesn't contain that, he's right; but it does
15:50:48 20 contain a provision wherein the parties are allowed to argue
15:50:52 21 for additional loss, additional victims and additional
15:50:56 22 offense level characteristics.

15:50:57 23 I would also note for the Court that the plea
15:50:59 24 agreement also sets forth a leadership adjustment of two
15:51:02 25 levels, which the government is agreeing not to seek in this

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15:51:04 1 case largely because of a lack of support for it in the PSR.
15:51:09 2 Certainly it would be in our rights to do so, but as ever,
15:51:12 3 your Honor, the government tries to, the best we can, get it
15:51:16 4 right. And to the extent that the defendant was willing to
15:51:18 5 agree to that as a leadership enhancement, that wasn't borne
15:51:21 6 out by probation. We are walking away from that.

15:51:25 7 So in terms of the total amount of difference
15:51:27 8 between what the probation office is asking for and what the
15:51:31 9 plea agreement calls for, it's actually a four-level
15:51:34 10 difference, your Honor. Three of those levels comes from
15:51:36 11 acceptance of responsibility.

15:51:38 12 THE COURT: Understood.

15:51:39 13 Now, the four-level increase requires 50 or more
15:51:43 14 victims, correct?

15:51:44 15 MR. STOLPER: It's actually only, as I understand
15:51:45 16 it, a two-additional level.

15:51:48 17 THE COURT: The total of four requires --

15:51:51 18 MR. STOLPER: Fifty or more.

15:51:51 19 THE COURT: I understand your point, but it
15:51:51 20 requires --

15:51:52 21 MR. STOLPER: That's correct, your Honor.

15:51:54 22 THE COURT: It requires 50 or more. And the claim
15:52:00 23 here is how many victims; 117?

15:52:04 24 MR. STOLPER: I actually haven't sat down and
15:52:06 25 counted up the number of that --

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15:52:08 1 THE COURT: I may be looking at an older document.
15:52:10 2 I'm looking at the October 29th document, but it's
15:52:14 3 substantially more than 50, correct?

15:52:17 4 MR. STOLPER: It's over 100, your Honor.

15:52:19 5 THE COURT: All right. Anything further,
15:52:20 6 Mr. Stolper?

15:52:22 7 MR. STOLPER: Not on the offense level, your
15:52:23 8 Honor, no.

15:52:24 9 THE COURT: From the defense, anything further on
15:52:26 10 the guideline calculation?

15:52:28 11 MR. MILLER: Simply, your Honor, that Mr. Stolper
15:52:30 12 has the burden of proof on this case. It is not incumbent
15:52:35 13 upon us to come in and show why one group of investors is
15:52:38 14 different from another group of investors. But, in fact,
15:52:38 15 the PSR at paragraphs 26 and 27 talks about how one group of
15:52:44 16 investors is, in fact, different.

15:52:46 17 And we also had previously submitted information
15:52:49 18 undermining the existence of a fraud at all. And so we've
15:52:54 19 done our best to show that a number of these victims -- a
15:52:57 20 number of these people do not consider themselves victims
15:53:00 21 and have not claimed to be victims. And because it is the
15:53:06 22 government's burden on this issue, I would just say they
15:53:11 23 have not met it, and submit.

15:53:13 24 THE COURT: All right.

15:53:14 25 Mr. Stolper, what is your burden on this issue?

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15:53:17 1 MR. STOLPER: Your Honor, it's the preponderance
15:53:18 2 of the evidence standard, and it's met by the defendant's
15:53:21 3 plea agreement and the information provided by the
15:53:22 4 probation office, namely that the defendant agreed that
15:53:26 5 High Park was a fraud, and that these folks were investors
15:53:29 6 in High Park.

15:53:30 7 It's like essentially another Ponzi scheme, your
15:53:33 8 Honor, the money that goes in that didn't come out, and it
15:53:36 9 all went in under false pretenses. I don't think there is
15:53:40 10 any allegation here that the, quote-unquote, "nonvictims"
15:53:44 11 were not -- there is no evidence to the contrary. The only
15:53:48 12 evidence that exists is the probation report as well as the
15:53:51 13 plea agreement.

15:53:52 14 THE COURT: All right. Thank you.

15:53:53 15 The Court is going to find that the correct
15:53:56 16 guideline calculations are as follows:

15:54:00 17 Offense level of 33, criminal history category of
15:54:04 18 1, giving the range of 135 to 168 months.

15:54:11 19 Let me just state what the significance of that
15:54:14 20 is. In sentencing in federal court, the first step is to
15:54:19 21 determine what the offense level is, and that's based on
15:54:22 22 what went on in the crime.

15:54:29 23 Let me get closer to the microphone. The -- in
15:54:36 24 sentencing in federal court, the first step is to determine
15:54:39 25 the guideline range. To do that, we first have a discussion

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15:54:43 1 about what the exact nature of the crime is. That's what
15:54:46 2 you've been hearing here. For larger amounts, the offense
15:54:52 3 level gets larger. For a higher number of victims, the
15:54:56 4 offense level gets higher.

15:54:59 5 Then once you determine the offense level, the
15:55:02 6 defendant's criminal history is examined, and there are
15:55:08 7 various levels reflecting the defendant's criminal history.
15:55:12 8 So what we've just done is calculate the offense level at 33
15:55:15 9 and the criminal history at 1.

15:55:19 10 The next thing we do in federal sentencing is to
15:55:25 11 determine a proper sentence, and here we will hear from
15:55:30 12 defense counsel. We'll hear from the defendant, if he
15:55:35 13 wishes. We'll hear from the government's counsel, and we'll
15:55:38 14 also hear from any victims in this courtroom that want to
15:55:41 15 speak to this issue.

15:55:43 16 Now, when we had our hearing previously, a number
15:55:46 17 of people came forward. In fact, I recognize your faces out
15:55:49 18 there right now. I believe this gentleman was here with his
15:55:52 19 relative.

15:55:54 20 But in any event, if any of you wish to speak,
15:55:58 21 you'll be given an opportunity to do that. There is a good
15:56:02 22 number of people in the courtroom, and so we can't let you
15:56:05 23 speak all day. But I find that usually people are brief and
15:56:10 24 to the point in what they have to say.

15:56:12 25 So in the -- now, to determine a proper

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15:56:16 1 sentence -- I actually think it might be best if we hear
15:56:22 2 first from the victims, and that will give everyone an
15:56:26 3 opportunity to comment upon what the victims have to say.
15:56:31 4 And so with that, I'm going to ask if any of you out there
15:56:36 5 in the courtroom wish to come forward and make any
15:56:38 6 comments.

15:56:39 7 And there is a hand up.

15:56:40 8 Please step forward, sir.

15:56:43 9 What we are going to do is just like we did last
15:56:46 10 time --

15:56:46 11 And actually, Mr. Stolper, if you want to go to
15:56:51 12 the back of the court and just see who else might want to
15:56:55 13 speak.

15:56:56 14 MR. STOLPER: Okay.

15:56:56 15 THE COURT: All right. With that, sir, you've
15:56:58 16 come forward. And I'm going to put a time limit of four
15:57:05 17 minutes on what people may say, because I see a number of
15:57:08 18 hands up there, sir, and so try and keep within the four
15:57:12 19 minutes.

15:57:13 20 MR. STOLPER: Your Honor, just so the Court knows,
15:57:14 21 I count three victims that would like to be heard today.

15:57:18 22 THE COURT: Pardon?

15:57:18 23 MR. STOLPER: I count three victims that would
15:57:18 24 like to be heard today.

15:57:19 25 THE COURT: All right. So go ahead, sir. First

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15:57:21 1 your name, sir.

15:57:22 2 MR. YARRINGTON: My name is Al Yarrington.

15:57:26 3 THE COURT: All right. Could you spell it for our
15:57:27 4 court reporter here.

15:57:29 5 MR. YARRINGTON: It's Albert, A-l-b-e-r-t,
15:57:32 6 Yarrington, Y-a-r-r-i-n-g-t-o-n.

15:57:42 7 THE COURT: I'm sorry, could you spell that one
15:57:45 8 more time, last name.

15:57:46 9 MR. YARRINGTON: Y-a-r-r-i-n-g-t-o-n.

15:57:50 10 THE COURT: Yes, Albert L. Yarrington. Go ahead,
15:57:55 11 sir.

15:57:56 12 MR. YARRINGTON: Your Honor, I wear hearing aids,
15:57:59 13 too, so sometimes I get a little loud because I'm trying to
15:58:03 14 hear myself sometimes.

15:58:05 15 THE COURT: That's all right.

15:58:06 16 MR. YARRINGTON: I'm an investor with High Park, I
15:58:08 17 was, and I was shown the property and --

15:58:11 18 THE COURT: Was your investment \$50,000?

15:58:13 19 MR. YARRINGTON: \$50,000, yes, sir.

15:58:16 20 THE COURT: Yes.

15:58:17 21 MR. YARRINGTON: And I've been an investor in real
15:58:20 22 estate for 30 years. I'm 75 years old, and I think I know a
15:58:25 23 good investment when I see one. But there's times that in
15:58:32 24 all walks of life you run into people, and you can be
15:58:37 25 --:58:37 25 frauded by them or -- and so this happens.

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15:58:40 1 And in this case here, I know that there is over a
15:58:46 2 hundred people that's been -- their money has been taken
15:58:52 3 away from them from Mr. Showalter sitting over here on my
15:58:57 4 left. And I'm only -- in his pleadings, his attorney's
15:59:03 5 pleadings for -- to -- for bail, I object to that, your
15:59:08 6 Honor. I think that he should -- he should pay for his
15:59:14 7 crimes. And I understand he has a history of crimes of this
15:59:18 8 nature, and so I implore you to give him the maximum
15:59:24 9 sentence that's allowed under the law. Thank you.

15:59:26 10 THE COURT: All right. Thank you, sir.

15:59:31 11 Let me just say, as the next gentleman walks
15:59:34 12 forward, Mr. -- is it Yarrington or Yarrington?

:59:37 13 (No audible response.)

15:59:38 14 THE COURT: Mr. Yarrington, Yarrington?

15:59:41 15 MR. YARRINGTON: Yes, sir.

15:59:42 16 THE COURT: Which is it, Yarrington or Yarrington?

15:59:46 17 MR. YARRINGTON: Yarrington.

15:59:46 18 THE COURT: Mr. Yarrington, you mentioned the
15:59:48 19 issue of bail. That is something else we will be taking up
15:59:51 20 here today. The issue on bail is whether the defendant be
15:59:57 21 given some time between the sentence today and when he goes
16:00:01 22 to jail, and you've responded to that. The question is not
16:00:07 23 just bail. It's whether he be given some time between today
16:00:11 24 and when he has to report.

16:00:14 25 Yes, sir. Your name is?

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16:00:16 1 MR. MOTAMEDI: Good afternoon, your Honor. My
16:00:17 2 name is Kamyar Motamedi, K-a-m-y-a-r, and my last name is
16:00:26 3 Motamedi, M-o-t-a-m-e-d-i.

16:00:33 4 THE COURT: All right, sir.

16:00:34 5 MR. MOTAMEDI: Your Honor, I responded to the ad
16:00:38 6 in October of 2004 regarding a safe and sound and a very
16:00:46 7 promising investment from L.A. Times. And it took me two
16:00:52 8 months to investigate, and I went to the Internet, and I
16:00:56 9 looked this gentleman up, and I went to their offices. And
16:00:59 10 I went and looked through many different sites with his
16:01:05 11 agents, because I was interested to be placed on a second
16:01:08 12 deed of trust on a property that I thought would be
16:01:10 13 suitable. And after two months, they called me back; they
16:01:14 14 said, "Yes, we have found the right place for you, and this
16:01:18 15 is where it's going to be."

16:01:20 16 Little I knew that it took them over a year or so
16:01:25 17 to produce a deed of trust, under tremendous pressure from
16:01:31 18 me and others to see a deed -- a document that would show a
16:01:35 19 recorded deed of trust that we could hang our hat on.

16:01:40 20 And then it turned out that I was one of many
16:01:43 21 different people that was placed on that position. Needless
16:01:47 22 to say, that is all gone and lost. That was --

16:01:52 23 THE COURT: Your investment -- was your investment
16:01:55 24 \$100,000?

16:01:56 25 MR. MOTAMEDI: Yes. That was my first investment.

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16:01:58 1 When I came in to give my money for the first \$50,000,
16:02:03 2 Mr. Showalter and his agents encouraged me to spend another
16:02:10 3 \$50,000 because they have this even better deal that I could
16:02:14 4 not refuse. And I foolishly went back and brought another
16:02:20 5 check for another \$50,000 and with my two own hands, handed
16:02:25 6 it over to him. And since then, I've regret that. That was
16:02:29 7 the money that I got out of my equity line of credit from my
16:02:33 8 own residence. And to this date, I am still paying the
16:02:38 9 price for it on a monthly basis.

16:02:41 10 I know a lot of it was my mistake because I just
16:02:45 11 got into this thing without really thinking clearly. But
16:02:49 12 some of it is this gentleman's fault because I asked him, I
16:02:53 13 said, you know, "I saw your name in Internet associated with
16:02:58 14 a different Ponzi game."

16:02:59 15 And he says, "Oh, this is all a misunderstanding.
16:03:02 16 Don't listen to these things. Government is just bunch of
16:03:06 17 nonsense people, and they are after you for some
16:03:09 18 misunderstanding. Don't worry about it. We are going to
16:03:12 19 make a lot of money for you and your family," and that's it.

16:03:15 20 And I told him that I have two small children, you
16:03:18 21 know, and I can't just risk it.

16:03:20 22 He says, "Don't worry about it. You are in good
16:03:23 23 hands."

16:03:23 24 I am here in front of you. I'm asking for justice
16:03:26 25 to the maximum extent possible. Thank you for your time.

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16:03:30 1 THE COURT: All right.

16:03:31 2 Any others?

16:03:36 3 Yes, ma'am?

16:03:41 4 MS. TIBAU: Good afternoon, your Honor. Thank you
16:03:43 5 for allowing me to address the Court once again. My name is
16:03:46 6 Anita Tibau, T-i-b-a-u.

16:03:50 7 And since the last hearing, it has come to my
16:03:54 8 attention -- I have learned of other victims and their
16:03:58 9 stories, and they are so tragic. And my passion for
16:04:02 10 justice, to see it served for all of these people -- some of
16:04:06 11 them I've met along the way, and some of them I've known --
16:04:09 12 compelled me to come back again to beg the Court, do not let
16:04:13 13 this man out if he tries to appeal this -- and I'm sure that
16:04:17 14 he will -- on bond. He is a menace to society. He will
16:04:21 15 continue this.

16:04:21 16 He has taken money from the poorest people who
16:04:26 17 have put their life savings, old people who have now passed
16:04:30 18 away, and their families will never ever recover. He is
16:04:34 19 going to continue on this path because that is the path that
16:04:37 20 he has chosen. If he wanted to do the right thing, we
16:04:40 21 would not be here in this court today. I implore the Court,
16:04:44 22 do not let this man post bond under any circumstances
16:04:48 23 because, again, you will find more people back in this court
16:04:50 24 again.

16:04:51 25 Thank you very much.

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16:04:51 1 THE COURT: All right. Thank you.

16:04:54 2 Anybody else?

16:05:00 3 Yes, sir?

16:05:02 4 MR. LIPPERT: My name is Johann Lippert,
16:05:05 5 J-o-h-a-n-n L-i-p-p-e-r-t, and my wife, Edel.

16:05:13 6 MRS. LIPPERT: I'm Edel Lippert, E-d-e-l
16:05:13 7 L-i-p-p-e-r-t.

16:05:24 8 THE COURT: Right. Mr. Lippert, welcome. You
16:05:26 9 spoke before, as I recall. You spoke at the last hearing.

16:05:31 10 MR. LIPPERT: Yes.

16:05:32 11 THE COURT: And you are welcome to speak again.
16:05:33 12 You are all welcome to speak again.

16:05:35 13 MR. LIPPERT: I will make it short again and put
16:05:37 14 the emphasis where it belongs, and that is my \$200,000 -- I
16:05:45 15 sold my house and got the \$200,000 to investing it to
16:05:51 16 supplement my income -- my retirement. And I was promised a
16:05:56 17 second trust deed, which I got, but there were 10 people on
16:06:00 18 it. Three months later I found out. I did not know there
16:06:05 19 is such a thing. And, of course, it was the house was so
16:06:09 20 over-encumbered, 10 people on one property. You know, it
16:06:13 21 was three times over-encumbered. And so I lost it. It was
16:06:17 22 foreclosed, and so I lost my money. And he's still not in
16:06:21 23 jail. Thank you, your Honor.

16:06:24 24 THE COURT: And, sir, you are 77, are you?

16:06:29 25 MR. LIPPERT: Almost.

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16:06:29 1 THE COURT: Almost, okay. Thank you.

16:06:36 2 MR. LIPPERT: I'm 76.

16:06:42 3 THE COURT: All right. Anything further?

16:06:44 4 Yes, sir.

16:06:49 5 MR. HAMIDEH: Thank you, your Honor, for giving me
16:06:50 6 the opportunity to come to the court. Thank you. My name
16:06:54 7 is Mayef Hamideh, M-a-y-e-f, first name; last name,
16:06:59 8 H-a-m-i-d-e-h.

16:07:04 9 I can't speak for everyone over there in back of
16:07:07 10 me. I know everyone is suffering the consequences that this
16:07:11 11 Mr. Showalter did to all of us. Maybe not talking enough --
16:07:15 12 is enough of what he did. I'm a person that had \$50,000,
:07:19 13 not even quite \$50,000. I had to get a loan from my brother
16:07:26 14 because I thought in faith -- I had a lot of faith in this
16:07:29 15 guy that -- the way he talked to you, he brainwash you, he
16:07:33 16 make it look the bad in a paradise.

16:07:36 17 He did many bad things before because his
16:07:39 18 background -- I check him out. I checked the High Park
16:07:42 19 Investment with TRW, with the other sources, and nothing
16:07:47 20 came up because he had background from before the time that
16:07:51 21 had -- that they had knowledge on him. And because of that,
16:07:55 22 I invested with this guy. And even though when I went to
16:07:59 23 his office in Huntington Beach, the first office he had, he
16:08:02 24 mentioned to me something about having a policeman investing
:08:08 25 here. He mentioned to me having powerful people investing